

§ 250.1491

BOEM instructions. BSEE will give you written information and standard forms for BOEM-specified surety instrument requirements.

(b) BOEM will use a bank-rating service to determine whether a financial institution has an acceptable rating to provide a surety instrument adequate to indemnify the lessor from loss or damage.

(1) Administrative appeal bonds must be issued by a qualified surety company which the Department of the Treasury has approved.

(2) Irrevocable letters of credit or certificates of deposit must be from a financial institution acceptable to BOEM with a minimum 1-year period of coverage subject to automatic renewal up to 5 years.

§ 250.1491 How will BOEM determine the amount of my bond or other surety instrument?

(a) The BOEM bond-approving officer may approve your surety if he or she determines that the amount is adequate to guarantee payment. The amount of your surety may vary depending on the form of the surety and how long the surety is effective.

(1) The amount of the BOEM-specified surety instrument must include the principal amount owed under the Notice of Noncompliance or Notice of Civil Penalty plus any accrued interest we determine is owed plus projected interest for a 1-year period.

(2) Treasury book-entry bond or note amounts must be equal to at least 120 percent of the required surety amount.

(b) If your appeal is not decided within 1 year from the filing date, you must increase the surety amount to cover additional estimated interest for another 1-year period. You must continue to do this annually on the date your appeal was filed. We will determine the additional estimated interest and notify you of the amount so you can amend your surety instrument.

(c) You may submit a single surety instrument that covers multiple appeals. You may change the instrument to add new amounts under appeal or remove amounts that have been adjudicated in your favor or that you have paid, if you:

30 CFR Ch. II (7–1–14 Edition)

(1) Amend the single surety instrument annually on the date you filed your first appeal; and

(2) Submit a separate surety instrument for new amounts under appeal until you amend the instrument to cover the new appeals.

FINANCIAL SOLVENCY REQUIREMENTS

§ 250.1495 How do I demonstrate financial solvency?

(a) To demonstrate financial solvency under this part, you must submit an audited consolidated balance sheet, and, if requested by the BOEM bond-approving officer, up to 3 years of tax returns to BOEM using the U.S. Postal Service, private delivery, courier, or overnight delivery at:

(1) For Alaska OCS: Jeffrey Walker, RS/FO, BOEM Alaska OCS Region, 3801 Centerpoint Drive, Suite 500, Anchorage, AK 99503–5823, *jeffrey.walker@boem.gov*, (907) 334–5300.

(2) For Gulf of Mexico and Atlantic OCS: Joshua Joyce, Regional FARM Program Coordinator, BOEM Gulf of Mexico OCS Region, 1201 Elmwood Park Boulevard New Orleans, LA 70123–2394, *joshua.joyce@boem.gov*, (504) 736–2779.

(3) For Pacific OCS: Jaron Ming, Lead Leasing Specialist, BOEM Pacific OCS Region, 770 Paseo Camarillo, 2nd Floor, Camarillo, CA 93010, *jaron.ming@boem.gov*, (805) 389–7514.

(b) You must submit an audited consolidated balance sheet annually, and, if requested, additional annual tax returns on the date BSEE first determined that you demonstrated financial solvency as long as you have active appeals, or whenever BSEE requests.

(c) If you demonstrate financial solvency in the current calendar year, you are not required to redemonstrate financial solvency for new appeals of orders during that calendar year unless you file for protection under any provision of the U.S. Bankruptcy Code (Title 11 of the United States Code), or BSEE notifies you that you must redemonstrate financial solvency.

§ 250.1496 How will BOEM determine if I am financially solvent?

(a) The BOEM bond-approving officer will determine your financial solvency

Safety & Environmental Enforcement, Interior

§ 250.1500

by examining your total net worth, including, as appropriate, the net worth of your affiliated entities.

(b) If your net worth, minus the amount we would require as surety under §§ 250.1490 and 250.1491 for all orders you have appealed is greater than \$300 million, you are presumptively deemed financially solvent, and we will not require you to post a bond or other surety instrument.

(c) If your net worth, minus the amount we would require as surety under §§ 250.1490 and 250.1491 for all orders you have appealed is less than \$300 million, you must submit the following to BSEE by one of the methods in § 250.1495(a):

(1) A written request asking us to consult a business-information, or credit-reporting service or program to determine your financial solvency; and

(2) A nonrefundable \$50 processing fee:

(i) You must pay the processing fee to us following the requirements for making payments found in 30 CFR 250.126. You are required to use Electronic Funds Transfer (EFT) for these payments;

(ii) You must submit the fee with your request under paragraph (c)(1) of this section, and then annually on the date we first determined that you demonstrated financial solvency, as long as you are not able to demonstrate financial solvency under paragraph (a) of this section and you have active appeals.

(d) If you request that we consult a business-information or credit-reporting service or program under paragraph (c) of this section:

(1) We will use criteria similar to that which a potential creditor would use to lend an amount equal to the bond or other surety instrument we would require under §§ 250.1490 and 250.1491;

(2) For us to consider you financially solvent, the business-information or credit-reporting service or program must demonstrate your degree of risk as low to moderate:

(i) If our bond-approving officer determines that the business-information or credit-reporting service or program information demonstrates your financial solvency to our satisfaction, our

bond-approving officer will not require you to post a bond or other surety instrument under §§ 250.1490 and 250.1491;

(ii) If our bond-approving officer determines that the business-information or credit-reporting service or program information does not demonstrate your financial solvency to our satisfaction, our bond-approving officer will require you to post a bond or other surety instrument under §§ 250.1490 and 250.1491 or pay the obligation.

§ 250.1497 When will BOEM monitor my financial solvency?

(a) If you are presumptively financially solvent under § 250.1496(b), BOEM will determine your net worth as described under § 250.1496(b) and (c) to evaluate your financial solvency at least annually on the date we first determined that you demonstrated financial solvency as long as you have active appeals and each time you appeal a new order.

(b) If you ask us to consult a business-information or credit-reporting service or program under § 250.1496(c), we will consult a service or program annually as long as you have active appeals and each time you appeal a new order.

(c) If our bond-approving officer determines that you are no longer financially solvent, you must post a bond or other BOEM-specified surety instrument under §§ 250.1490 and 250.1491.

Subpart O—Well Control and Production Safety Training

§ 250.1500 Definitions.

Terms used in this subpart have the following meaning:

Contractor and contract personnel mean anyone, other than an employee of the lessee, performing well control, deepwater well control, or production safety duties for the lessee.

Deepwater well control means well control when you are using a subsea BOP system.

Employee means direct employees of the lessees who are assigned well control, deepwater well control, or production safety duties.

I or you means the lessee engaged in oil, gas, or sulphur operations in the Outer Continental Shelf (OCS).